

# CALIFORNIA HEALTH AND SAFETY CODE

## DIVISION 107. STATEWIDE HEALTH PLANNING AND DEVELOPMENT

### PART 5. HEALTH DATA

#### Chapter 1. Health Facility Data

[Part 5 was added by Stats. 1995, c. 415 (S.B. 1360), § 9.]

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**§ 128675. Popular name of chapter**

This chapter shall be known as the Health Data and Advisory Council Consolidation Act.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443, added by Stats. 1984, c. 1326, § 7.)

**§ 128680. Legislative findings, declarations and intent**

The Legislature hereby finds and declares that:

(a) Significant changes have taken place in recent years in the health care marketplace and in the manner of reimbursement to health facilities by government and private third-party payers for the services they provide.

(b) These changes have permitted the state to reevaluate the need for, and the manner of data collection from health facilities by the various state agencies and commissions.

(c) It is the intent of the Legislature that as a result of this reevaluation that the data collection function be consolidated in the single state agency. It is the further intent of the Legislature that the single state agency only collect that data from health facilities that are essential. The data should be collected, to the extent practical on consolidated, multipurpose report forms for use by all state agencies.

(d) It is the further intent of the Legislature to eliminate the California Health Facilities Commission and the State Advisory Health Council, and to create a single advisory commission to assume consolidated data collection and planning functions.

(e) It is the Legislature's further intent that the review of the data that the state collects be an ongoing function. The office, with the advice of the advisory commission, shall annually review this data for need and shall revise, add, or delete items as necessary. The commission and the office shall consult with affected state agencies and the affected industry when adding or eliminating data items. However, the office shall neither add nor delete data items to the Hospital Discharge Abstract Data Record or the quarterly reports without prior authorizing legislation, unless specifically required by federal law or judicial decision.

(f) The Legislature recognizes that the authority for the California Health Facilities Commission is scheduled to expire January 1, 1986. It is the intent of the Legislature, by the enactment of this chapter, to continue the uniform system of accounting and reporting established by the commission and required for use by health facilities. It is also the intent of the Legislature to continue an appropriate, cost-disclosure program.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former 443.10, added by Stats. 1984, c. 1326, § 7, amended by Stats. 1985, c. 1021, § 15.)

**§ 128685. Intermediate care facilities/developmentally disabled - habilitative; exemption**

Intermediate care facilities/developmentally disabled - habilitative, as defined in subdivision (e) of Section 1250, are not subject to this chapter.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.15, added as § 441.21 by Stats. 1987, c. 1456, § 1, renumbered § 443.15 and amended by Stats. 1990, c. 216 (S.B. 2510), § 49.)

**§ 128690. Intermediate care facilities/developmentally disabled - nursing; exemption**

Intermediate care facilities/developmentally disabled - nursing, as defined in subdivision (h) of Section 1250, are not subject to this chapter.

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(Added by Stats. 1995, c. 415 (S.B. 1360), § 9.) Former 443.16, added as § 441.22 by Stats. 1985, c. 1496, § 3, renumbered § 443.16 and amended by Stats. 1990, c. 216 § 50.)

### **§ 128695. California health policy and data advisory commission; creation; membership; terms**

There is hereby created the California Health Policy and Data Advisory Commission to be composed of 11 members.

The Governor shall appoint seven members, one of whom shall be a hospital chief executive officer, one of whom shall be a long-term care facility chief executive officer, one of whom shall be a representative of the health insurance industry involved in establishing premiums or underwriting, one of whom shall be a representative of a group prepayment health care service plan, one of whom shall be a representative of a business coalition concerned with health, and two of whom shall be general members. The Speaker of the Assembly shall appoint two members, one of whom shall be a physician and surgeon and one of whom shall be a general member. The Senate Rules Committee shall appoint two members, one of whom shall be a representative of a labor coalition concerned with health, and one of whom shall be a general member.

The chairperson shall be designated by the Governor. The Governor shall designate four original appointments which will be for four-year terms. The Governor shall designate three original appointments which shall be for two-year terms. The Speaker of the Assembly shall designate one original appointment that will be for two years and one original appointment that will be for four years. The Senate Rules Committee shall designate one original appointment that will be for two years and one original appointment that will be four years. Thereafter, all appointments shall be for four-year terms.

In addition to the 11 original appointees to the commission, the chairperson of the Advisory Health Council on December 31, 1985, and the chairperson of the California Health Facilities Commission on December 31, 1985, shall also serve four-year terms. During their terms when the commission shall have 13 members, they shall be full voting representatives.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 437, added by Stats. 1971, c. 1217, § 2, amended by Stats. 1976, c.854, § 1; Stats. 1977, c. 206, § 1. Former § 437, added by Stats. 1967, c. 1597, § 1, amended by Stats. 1969, c. 1550, § 1; Stats. 1971, c. 1217, § 1; Stats. 1971, c. 1953, § 120. Former § 437.1, added by Stats. 1967, c. 1597, § 1, amended by Stats. 1969, c. 1550, § 2; Stats. 1971, c. 1217, § 3; Stats. 1971, c. 1593, § 122; Stats. 1976, c. 854, § 2. Former § 443.20, added by Stats. 1984, c. 1326, § 7.)

### **§ 128700. Definitions**

As used in this chapter, the following terms mean:

- (a) "Commission" means the California Health Policy and Data Advisory Commission.
- (b) "Health facility" or "health facilities" means all health facilities required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.
- (c) "Hospital" means all health facilities except skilled nursing, intermediate care, and congregate living health facilities.
- (d) "Office" means the Office of Statewide Health Planning and Development.
- (e) "Risk-adjusted outcomes" means the clinical outcomes of patients grouped by diagnoses or procedures that have been adjusted for demographic and clinical factors.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former 443.21, added by Stats. 1985, c. 1021, § 2, amended by Stats. 1988, c. 1478, § 2; Stats. 1991, c. 1075, § 2.)

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### **§ 128705. Reference to Advisory Health Council**

On and after January 1, 1986, any reference in this code to the Advisory Health Council shall be deemed a reference to the California Health Policy and Data Advisory Commission.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former 443.22, added by Stats. 1984, c. 1326, § 7, amended by Stats. 1989, c. 898, § 4.)

### **§ 128710. Meetings**

The California Health Policy and Data Advisory Commission shall meet at least once every two months, or more often if necessary to fulfill its duties.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 437.2, added by Stats. 1967, c. 1597, § 1, amended by Stats. 1969, c. 371, § 30; Stats. 1969, c. 1550, § 3; Stats. 1971, c. 1593, § 123; Stats. 1976, c. 854, § 2.5. Former § 443.23, added by Stats. 1984, c. 1326, § 7.)

### **§ 128715. Per diem and expenses**

The members of the commission shall receive per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties and shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the commission.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 437.3, added by Stats. 1967, c. 1597, § 1, amended by Stats. 1971, c. 1593, § 124; Stats. 1976, c. 854, § 2.7. Former § 443.24, added by Stats. 1984, c. 1326, § 7.)

### **§ 128720. Executive Secretary; staff to commission**

The commission may appoint an executive secretary subject to approval by the Secretary of Health and Welfare. The office shall provide such other staff to the commission as the office and the commission deem necessary.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 437.4, added by Stats. 1967, c. 197, § 1, amended by Stats. 1969, c. 1550, § 4. Former § 443.25, added by Stats. 1984, c. 1326, § 7.)

### **§ 128725. Powers and duties of commission; appointment and duties of committees; office and commission disagreements**

The functions and duties of the commission shall include the following:

- (a) Advise the office on the implementation of the new, consolidated data system.
- (b) Advise the office regarding the ongoing need to collect and report health facility data and other provider data.
- (c) Annually develop a report to the director of the office regarding changes that should be made to existing data collection systems and forms. Copies of the report shall be provided to the Senate Health and Human Services Committee and to the Assembly Health Committee.
- (d) Advise the office regarding changes to the uniform accounting and reporting systems for health facilities.
- (e) Conduct public meetings for the purposes of obtaining input from health facilities, other providers, data users, and the general public regarding this chapter and Chapter 1 (commencing with Section 127125) of Part 2 of Division 107.

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(f) Advise the Secretary of Health and Welfare on the formulation of general policies which shall advance the purposes of this part.

(g) Advise the office on the adoption, amendment, or repeal of regulations it proposes prior to their submittal to the Office of Administrative Law.

(h) Advise the office on the format of individual health facility or other provider data reports and on any technical and procedural issues necessary to implement this part.

(I) Advise the office on the formulation of general policies which shall advance the purposes of Chapter 1 (commencing with Section 127125) of Part 2 of Division 107.

(j) Recommend, in consultation with a 12-member technical advisory committee appointed by the chairperson of the commission, to the office the data elements necessary for the production of outcome reports required by Section 128745.

(k)(1) The technical advisory committee appointed pursuant to subdivision (j) shall be composed of two members who shall be hospital representatives appointed from a list of at least six persons nominated by the California Association of Hospitals and Health Systems, two members who shall be physicians and surgeons appointed from a list of at least six persons nominated by the California Medical Association, two members who shall be registered nurses appointed from a list of at least six persons nominated by the California Nurses Association, one medical record practitioner who shall be appointed from a list of at least six persons nominated by the California Health Information Association, one member who shall be a representative of a hospital authorized to report as a group pursuant to subdivision (d) of Section 128760, two members who shall be representative of California research organizations experienced in effectiveness review of medical procedures or surgical procedures, or both procedures, one member representing the Health Access Foundation, and one member representing the Consumers Union. Members of the technical advisory committee shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the technical advisory committee.

(2) The commission shall submit its recommendation to the office regarding the first of the reports required pursuant to subdivision (a) of Section 128745 no later than January 1, 1993. The technical advisory committee shall submit its initial recommendations to the commission pursuant to subdivision (d) of Section 128750 no later than January 1, 1994. The commission, with the advice of the technical advisory committee, may periodically make additional recommendations under Sections 128745 and 128750 to the office, as appropriate.

(l)(1) Assess the value and usefulness of the reports required by Sections 127285, 128735, and 128740. On or before December 1, 1997, the commission shall submit recommendations to the office to accomplish all of the following.

- (A) Eliminate redundant reporting.
- (B) Eliminate collection of unnecessary data.
- (C) Augment data bases as deemed valuable to enhance the quality and usefulness of data.
- (D) Standardize data elements and definitions with other health data collection programs at both the state and national levels.
- (E) Enable linkage with, and utilization of, existing data sets.
- (F) Improve the methodology and data bases used for quality assessment analyses, including, but not limited to, risk-adjusted outcome reports.
- (G) Improve the timeliness of reporting and public disclosure.

(2) The commission shall establish a committee to implement the evaluation process. The committee shall include representatives from the health care industry, providers, consumers, payers, purchasers, and government entities, including the Department of Corporations, the departments that comprise the Health

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and Welfare Agency, and others deemed by the commission to be appropriate to the evaluation of the data bases. The committee may establish subcommittees including technical experts.

(m)(1) As the office and the commission deem necessary, the commission may establish committees and appoint persons who are not members of the commission to these committees as are necessary to carry out the purposes of the commission. Representatives of area health planning agencies shall be invited, as appropriate, to serve on committees established by the office and the commission relative to the duties and responsibilities of area health planning agencies. Members of the standing committees shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of these committees.

(2) Whenever the office or the commission does not accept the advice of the other body on proposed regulations or on major policy issues, the office or the commission shall provide a written response on its action to the other body within 30 days, if so requested.

(3) The commission or the office director may appeal to the Secretary of Health and Welfare over disagreements on policy, procedural, or technical issues.

(Formerly § 443.26, added by Stats. 1984, c. 1326, § 7. Amended by Stats. 1991, c. 1075 (A.B. 524) § 3; Stats. 1995, c. 543 (S.B. 1109), § 2, eff. Oct. 4, 1995. Renumbered § 128725 and amended by Stats. 1996, c. 1023 ( S.B. 1497), § 141, eff. Sept. 29, 1996.)

### **§ 128730. Single state agency; collection of health facility or clinical data; consolidation of reports**

(a) Effective January 1, 1986, the office shall be the single state agency designated to collect the following health facility or clinic data for use by all state agencies:

(1) That data required by the office pursuant to Section 127285.

(2) That data required in the Medi-Cal cost reports pursuant to Section 14170 of the Welfare and Institutions Code.

(3) Those data items formerly required by the California Health Facilities Commission that are listed in Sections 128735 and 128740. Information collected pursuant to subdivision (g) of Section 128735 shall be made available to the State Department of Health Services. The state department shall ensure that the patient's rights to confidentiality shall not be violated in any manner. The state department shall comply with all applicable policies and requirements involving review and oversight by the State Committee for the Protection of Human Subjects.

(b) The office shall consolidate any and all of the reports listed under this section or Sections 128735 and 128740, to the extent feasible, to minimize the reporting burdens on hospitals. Provided, however, that the office shall neither add nor delete data items from the Hospital Discharge Abstract Data Record or the quarterly reports without prior authorizing legislation, unless specifically required by federal law or regulation or judicial decision.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.30, added by Stats. 1984, c. 1326, § 7, amended by Stats. 1994, c. 1063, § 1.)

### **§ 128735. Health facilities; reports; exemptions from disclosure requirements; liability; hospital discharge abstract data record; patient confidentiality**

Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the office, at the times as the office shall require, all of the following reports on forms specified by the office that shall be in accord where applicable with the systems of accounting and uniform reporting required by this part, except the reports required pursuant to subdivision (g) shall be limited to hospitals:

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- (a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.
- (b) A statement of income, expenses, and operating surplus or deficit for the annual fiscal period, and a statement of ancillary utilization and patient census.
- (c) A statement detailing patient revenue by payer, including, but not limited to, Medicare, Medi-Cal, and other payers, and revenue center except that hospitals authorized to report as a group pursuant to subdivision (d) of Section 128760 are not required to report revenue by revenue center.
- (d) A statement of cash-flows, including, but not limited to, ongoing and new capital expenditures and depreciation.
- (e) A statement reporting the information required in subdivisions (a), (b), (c), and (d) for each separately licensed health facility operated, conducted, or maintained by the reporting organization, except those hospitals authorized to report as a group pursuant to subdivision (d) of Section 128760.
- (f) The office shall consult with the County Hospital Committee of the California Hospital Association, the County Supervisors Association of California, and the California Association of Public Hospitals to improve the accuracy of indigent care revenue reporting and shall present legislative or regulatory recommendations for such improvements by March 30, 1985.
- (g) A Hospital Discharge Abstract Data Record that includes all of the following:
  - (1) Date of birth.
  - (2) Sex.
  - (3) Race.
  - (4) ZIP Code.
  - (5) Patient social security number, if it is contained in the patient's medical record.
  - (6) Prehospital care and resuscitation, if any, including all of the following:
    - (A) "Do not resuscitate" (DNR) order at admission.
    - (B) "Do not resuscitate" (DNR) order after admission.
  - (7) Admission date.
  - (8) Source of admission.
  - (9) Type of admission.
  - (10) Discharge date.
  - (11) Principal diagnosis and whether the condition was present at admission.
  - (12) Other diagnoses and whether the conditions were present at admission.
  - (13) External cause of injury.
  - (14) Principal procedure and date.
  - (15) Other procedures and dates.
  - (16) Total charges.
  - (17) Disposition of patient.
  - (18) Expected source of payment.

It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(h) No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of subdivision (g).

A hospital or its designee shall semiannually file the Hospital Discharge Abstract Data Record not later than six months after the end of each semiannual period, commencing six months after January 1, 1986.

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A hospital may submit the Hospital Discharge Abstract Data Record in a computer tape format, and a hospital shall use coding from the International Classification of Diseases in reporting diagnoses and procedures.

(Amended by Stats. 1996, c. 1025 (S.B. 1659), § 2. Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.31, added by Stats. 1984, c. 1326, § 7, amended by Stats. 1984, c. 1338, § 1; Stats. 1985, c. 756, § 1; Stats. 1985, c. 1021, § 4; Stats. 1988, c. 1140, § 1; Stats. 1993, c. 249, § 1; Stats. 1994, c. 1063, § 2.)

[Editor's Note: In the legislative bill, A.B. 3639, the word "semiannual" is incorrectly shows as "semiannually".]

### **§ 128740. Quarterly summary financial and utilization data reports; contents; copies; charity care service guidelines**

(a) Commencing with the first calendar quarter of 1992, the following summary financial and utilization data shall be reported to the office by each hospital within 45 days of the end of every calendar quarter. Adjusted reports reflecting changes as a result of audited financial statements may be filed within four months of the close of the hospital's fiscal or calendar year. The quarterly summary financial and utilization data shall conform to the uniform description of accounts as contained in the Accounting and Reporting Manual for California Hospitals and shall include all of the following:

- (1) Number of licensed beds.
  - (2) Average number of available beds.
  - (3) Average number of staffed beds.
  - (4) Number of discharges.
  - (5) Number of inpatient days.
  - (6) Number of outpatient visits.
  - (7) Total operating expenses.
  - (8) Total inpatient gross revenues by payer, including Medicare, Medi-Cal, county indigent programs, other third parties, and other payers.
  - (9) Total outpatient gross revenues by payer, including Medicare, Medi-Cal, county indigent programs, other third parties, and other payers.
  - (10) Deductions from revenue in total and by component, including the following: Medicare contractual adjustments, Medi-Cal contractual adjustments, and county indigent program contractual adjustments, other contractual adjustments, bad debts, charity care, restricted donations and subsidies for indigents, support for clinical teaching, teaching allowances, and other deductions.
  - (11) Total capital expenditures.
  - (12) Total net fixed assets.
  - (13) Total number of inpatient days, outpatient visits, and discharges by payer, including Medicare, Medi-Cal, county indigent programs, other third parties, self-pay, charity, and other payers.
  - (14) Total net patient revenues by payer including Medicare, Medi-Cal, county indigent programs, other third parties, and other payers.
  - (15) Other operating revenue.
  - (16) Nonoperating revenue net of nonoperating expenses.
- (b) Hospitals reporting pursuant to subdivision (d) of Section 128760 may provide the items in paragraphs (7), (8), (9), (10), (14), (15), and (16) of subdivision (a) on a group basis, as described in subdivision (d) of Section 128760.



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(c) The office shall make available at cost, to all interested parties, a hard copy of any hospital report made pursuant to this section and in addition to hard copies, shall make available at cost, a computer tape of all reports made pursuant to this section within 105 days of the end of every calendar quarter.

(d) The office, with the advice of the commission, shall adopt by regulation guidelines for the identification, assessment, and reporting of charity care services. In establishing the guidelines, the office shall consider the principles and practices recommended by professional health care industry accounting associations for differentiating between charity services and bad debts. The office shall further conduct the onsite validations of health facility accounting and reporting procedures and records as are necessary to assure that reported data are consistent with regulatory guidelines.

This section shall become operative January 1, 1992.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.32, added by Stats. 1989, c. 1331, § 1.2, amended by Stats. 1990, c. 51, § 1.5; Stats. 1990, c. 51, § 2; Stats. 1991, c. 278, § 1.4; Stats. 1991, c. 278, § 1.5.)

### **§ 128745. Annual risk-adjusted outcome reports; schedule; criteria; groupings**

(a) Commencing July 1993, and annually thereafter, the office shall publish risk-adjusted outcome reports in accordance with the following schedule:

<b>Publication Date</b>	<b>Period Covered</b>	<b>Procedures and Conditions Covered</b>
July 1993	1988-90	3
July 1994	1989-91	6
July 1995	1990-92	9

Reports for subsequent years shall include conditions and procedures and cover periods as appropriate.

(b) The procedures and conditions to be reported shall be divided equally among medical, surgical and obstetric conditions or procedures and shall be selected by the office, based on the recommendations of the commission and the advice of the technical advisory committee set forth in subdivision (j) of Section 128725. The selections shall be in accordance with all of the following criteria:

- (1) The patient discharge abstract contains sufficient data to undertake a valid risk adjustment.
- (2) The relative importance of the procedure and condition in terms of the cost of cases and the number of cases.

(3) Ability to measure outcome and the likelihood that care influences outcome.

(4) Reliability of the diagnostic and procedure data.

(c) The annual reports shall compare the risk-adjusted outcomes experienced by all patients treated for the selected conditions and procedures in each California hospital during the period covered by each report, to the outcomes expected. Outcomes shall be reported in the five following groupings:

- (1) "Much higher than average outcomes," for hospitals with risk-adjusted outcomes much higher than the norm.
- (2) "Higher than average outcomes," for hospitals with risk-adjusted outcomes higher than the norm.
- (3) "Average outcomes," for hospitals with average risk-adjusted outcomes.
- (4) "Lower than average outcomes," for hospitals with risk-adjusted outcomes lower than the norm.
- (5) "Much lower than average outcomes," for hospitals with risk-adjusted outcomes much lower than the norm.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.321, added by Stats. 1991, c. 1075, § 4.)

**§ 128750. Preliminary report to hospital included in annual outcome report; explanatory statement; additional information; technical advisory committee duties**

(a) Prior to the public release of the annual outcome reports the office shall furnish a preliminary report to each hospital that is included in the report. The office shall allow the hospital and chief of staff 60 days to review the outcome scores and compare the scores to other California hospitals. A hospital or its chief of staff that believes that the risk-adjusted outcomes do not accurately reflect the quality of care provided by the hospital may submit a statement to the office, within the 60 days, explaining why the outcomes do not accurately reflect the quality of care provided by the hospital. The statement shall be included in an appendix to the public report, and a notation that the hospital or its chief of staff has submitted a statement shall be displayed wherever the report presents outcome scores for the hospital.

(b) The office shall, in addition to public reports, provide hospitals and the chiefs of staff of the medical staffs with a report containing additional detailed information derived from data summarized in the public outcome reports as an aid to internal quality assurance.

(c) If, pursuant to the recommendations of the office, based on the advice of the commission, in response to the recommendations of the technical advisory committee made pursuant to subdivision (d) of this section, the Legislature subsequently amends Section 128735 to authorize the collection of additional discharge data elements, then the outcome reports for conditions and procedures for which sufficient data is not available for the current abstract record will be produced following the collection and analysis of the additional data elements.

(d) The recommendations of the technical advisory committee for the addition of data elements to the discharge abstract should take into consideration the technical feasibility of developing reliable risk-adjustment factors for additional procedures and conditions as determined by the technical advisory committee with the advice of the research community, physicians and surgeons, hospitals, and medical records personnel.

(e) The technical advisory committee at a minimum shall identify a limited set of core clinical data elements to be collected for all of the added procedures and conditions and unique clinical variables necessary for risk adjustment of specific conditions and procedures selected for the outcomes report program. In addition, the committee should give careful consideration to the costs associated with the additional data collection and the value of the specific information to be collected.

(f) The technical advisory committee shall also engage in a continuing process of data development and refinement applicable to both current and prospective outcome studies.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.322, added by Stats. 1991, c. 1075, § 5.)

**§ 128755. Reports required; filing; availability**

(a)(1) Hospitals shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 with the office within four months after the close of the hospital's fiscal year except as provided in paragraph (2).

(2) If a licensee relinquishes the facility license or puts the facility license in suspense, the last day of active licensure shall be deemed a fiscal year end.

(3) The office shall make the reports filed pursuant to this subdivision available no later than three months after they were filed.

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(b)(1) Skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, and congregate living facilities, including nursing facilities certified by the state department to participate in the Medi-Cal program, shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 with the office within four months after the close of the facility's fiscal year, except as provided in paragraph (2).

(2)(A) If a licensee relinquishes the facility license or puts the facility licensure in suspense, the last day of active licensure shall be deemed a fiscal year end.

(B) If a fiscal year end is created because the facility license is relinquished or put in suspense, the facility shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 within two months after the last day of active licensure.

(3) The office shall make the reports filed pursuant to paragraph (1) available not later than three months after they are filed.

(4)(A) Effective for fiscal years ending on or after December 31, 1991, the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 shall be filed with the office by electronic media, as determined by the office.

(B) Congregate living health facilities are exempt from the electronic media reporting requirements of subparagraph (A).

(c) The reports required by subdivision (g) of Section 128735 shall be filed semiannually by each hospital or its designee not later than six months after the end of each semiannual period, commencing six months after January 1, 1986, and shall be available from the office no later than six months after the date upon which the report was filed.

(d) The reports referred to in paragraph (2) of subdivision (a) of Section 128730 shall be filed with the office on the dates required by applicable law and shall be available from the office no later than six months after the date that the report was filed.

(e) The office shall make available at cost, to all interested parties, a hard copy of any health facility report referred to in subdivision (a), (b), (c), (d), or (g) of Section 128735 and in addition to hard copies, shall make available at cost, computer tapes of the health facility reports referred to in subdivision (a), (b), (c), (d), or (g) of Section 128735, unless the office determines that an individual patient's rights of confidentiality would be violated.

(Added by Stats. 1995, c. 415 (S.B. 1360) § 9. Former § 443.33, added by Stats. 1984, c. 1326, § 7, amended by Stats. 1985, c. 1021, § 7; Stats. 1988, c. 1140, § 2; Stats. 1990, c. 502, § 1.)

### **§ 128760. Health facilities; accounting and auditing systems; modifications to discharge data reporting requirements; reporting provisions; county hospital systems financial reporting requirements**

(a) On and after January 1, 1986, those systems of health facility accounting and auditing formerly approved by the California Health Facilities Commission shall remain in full force and effect for use by health facilities but shall be maintained by the office with the advice of the Health Policy and Data Advisory Commission.

(b) The office, with the advice of the commission, shall allow and provide, in accordance with appropriate regulations, for modifications in the accounting and reporting systems for use by health facilities in meeting the requirements of this chapter if the modifications are necessary to do any of the following:

(1) To correctly reflect differences in size of, provision of, or payment for, services rendered by health facilities.

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(2) To correctly reflect differences in scope, type, or method of provision of, or payment for, services rendered by health facilities.

(3) To avoid unduly burdensome costs for those health facilities in meeting the requirements of differences pursuant to paragraphs (1) and (2).

(c) Modifications to discharge data reporting requirements. The office, with the advice of the commission, shall allow and provide, in accordance with appropriate regulations, for modifications to discharge data reporting format and frequency requirements if these modifications will not impair the office's ability to process the data or interfere with the purposes of this chapter. This modification authority shall not be construed to permit the office to administratively require the reporting of discharge data items not specified in Section 128735.

(d) Reporting provisions for health facilities. The office, with the advice of the commission, shall establish specific reporting provisions for health facilities that receive a preponderance of their revenue from associated comprehensive group-practice prepayment health care service plans. These health facilities shall be authorized to utilize established accounting systems, and to report costs and revenues in a manner which is consistent with the operating principles of these plans and with generally accepted accounting principles. When these health facilities are operated as units of a coordinated group of health facilities under common management, they shall be authorized to report as a group rather than as individual institutions. As a group, they shall submit a consolidated income and expense statement.

Hospitals authorized to report as a group under this subdivision may elect to file cost data reports required under the regulations of the Social Security Administration in its administration of Title XVIII of the federal Social Security Act in lieu of any comparable cost reports required under Section 128735. However, to the extent that cost data is required from other hospitals, the cost data shall be reported for each individual institution.

The office, with the advice of the commission, shall adopt comparable modifications to the financial reporting requirements of this chapter for county hospital systems consistent with the purposes of this chapter.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.34, added by Stats. 1984, c. 1326, § 7, amended by Stats. 1984, c. 1338, § 2; Stats. 1985, c. 756, § 5.)

### **§ 128765. File of reports; public inspection; certified copies; summaries; public liaison**

(a) The office, with the advice of the commission, shall maintain a file of all the reports filed under this chapter at its Sacramento office. Subject to any rules the office, with the advice of the commission, may prescribe, these reports shall be produced and made available for inspection upon the demand of any person, with the exception of hospital discharge abstract data that shall be available for public inspection unless the office determines that an individual patient's rights of confidentiality would be violated.

(b) Copies certified by the office as being true and correct, copies of reports properly filed with the office pursuant to this chapter, together with summaries, compilations, or supplementary reports prepared by the office, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission that participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each of these state, county, or local governmental agencies, boards, and commissions shall weigh and consider the reports made available to it pursuant to the provisions of this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of these publicly financed programs.

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(c) The office, with the advice of the commission, shall compile and publish summaries of the data for the purpose of public disclosure. The commission shall approve the policies and procedures relative to the manner of data disclosure to the public. The office, with the advice of the commission, may initiate and conduct studies as it determines will advance the purposes of this chapter.

(d) In order to assure that accurate and timely data are available to the public in useful formats, the office shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the director and the commission with an annual report on changes that can be made to improve the public's access to data.

(e) In addition to its public liaison function, the office shall continue the publication of aggregate industry and individual health facility cost and operational data published by the California Health Facilities Commission as described in subdivision (b) of Section 441.95 as that section existed on December 31, 1985. This publication shall be submitted to the Legislature not later than March 1 of each year commencing with calendar year 1986 and in addition shall be offered for sale as a public document.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.35, added by Stats. 1984, c. 1326, § 7, amended by Stats. 1985, c. 1021, § 8.)

### **§ 128770. Penalties; disposition**

(a) Any health facility that does not file any report as required by this chapter with the office is liable for a civil penalty of one hundred dollars (\$100) a day for each day the filing of any report is delayed. No penalty shall be imposed if an extension is granted in accordance with the guidelines and procedures established by the office, with the advice of the commission.

(b) Any health facility that does not use an approved system of accounting pursuant to the provisions of this chapter for purposes of submitting financial and statistical reports as required by this chapter shall be liable for a civil penalty of not more than five thousand dollars (\$5,000).

(c) Civil penalties are to be assessed and recovered in a civil action brought in the name of the people of the State of California by the office. Assessment of a civil penalty may, at the request of any health facility, be reviewed on appeal, and the penalty may be reduced or waived for good cause.

(d) Any money which is received by the office pursuant to this section shall be paid into the General Fund.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.36, added by Stats. 1984, c. 1326, § 7.)

### **§ 128775. Petition for review; hearing; judicial review; subpoena powers**

(a) Any health facility affected by any determination made under this part by the office may petition the office for review of the decision. This petition shall be filed with the office within 15 business days, or within a greater time as the office, with the advice of the commission, may allow, and shall specifically describe the matters which are disputed by the petitioner.

(b) A hearing shall be commenced within 60 calendar days of the date on which the petition was filed. The hearing shall be held before an employee of the office, an administrative law judge employed by the Office of Administrative Hearings, or a committee of the commission chosen by the chairperson for this purpose. If held before an employee of the office or a committee of the commission, the hearing shall be held in accordance with any procedures as the office, with the advice of the commission, shall prescribe. If held before an administrative law judge employed by the Office of Administrative Hearings, the hearing shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of

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Title 2 of the Government Code. The employee, administrative law judge, or committee shall prepare a recommended decision including findings of fact and conclusions of law and present it to the office for its adoption. The decision of the office shall be in writing and shall be final. The decision of the office shall be made within 60 calendar days after the conclusion of the hearing and shall be effective upon filing and service upon the petitioner.

(c) Judicial review of any final action, determination, or decision may be had by any party to the proceedings as provided in Section 1094.5 of the Code of Civil Procedure. The decision of the office shall be upheld against a claim that its findings are not supported by the evidence unless the court determines that the findings are not supported by substantial evidence.

(d) The employee of the office, the administrative law judge employed by the Office of Administrative Hearings, the Office of Administrative Hearings, or the committee of the commission, may issue subpoenas and subpoenas duces tecum in a manner and subject to the conditions established by Article 11 (commencing with Section 11450.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) This section shall become operative on July 1, 1997.

(Formerly § 443.37, added by Stats. 1984, c. 1326, § 7. Amended by Stats. 1985, c. 1021, § 9; Stats. 1995, c. 938 (S.B. 523), § 59, operative July 1, 1997. Renumbered § 128775 and amended by Stats. 1996, c. 1023 (S.B. 1497), §141.4, eff. Sept. 29, 1996, operative July 1, 1997.)

### **§ 128780. District hospitals; completeness of disclosure**

Notwithstanding any other provision of law, the disclosure aspects of this chapter shall be deemed complete with respect to district hospitals, and no district hospital shall be required to report or disclose any additional financial or utilization data to any person or other entity except as is required by this chapter.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.38, added by Stats. 1984, c. 1326, § 7.)

### **§ 128782. Small and rural hospitals; exemption from electronic filing requirements; one-time reduction in fee**

Notwithstanding any other provision of law, upon the request of a small and rural hospital, as defined in Section 124840, that did not file financial reports with the office by electronic media as of January 1, 1993, the office shall, on a case-by-case basis, do one of the following:

(a) Exempt the small and rural hospital from any electronic filing requirements of the office regarding annual or quarterly financial disclosure reports specified in Sections 128735 and 128740.

(b) Provide a one-time reduction in the fee charged to the small and rural hospital not to exceed the maximum amount assessed pursuant to Section 127280 by an amount equal to the costs incurred by the small and rural hospital to purchase the computer hardware and software necessary to comply with any electronic filing requirements of the office regarding annual or quarterly financial disclosure reports specified in Sections 128735 and 128740.

(Added by Stats. 1996, c. 1023 (S.B. 1497), § 369, eff. Sept. 29, 1996.)

### **§ 128785. Regulations to remain in effect**

On January 1, 1986, all regulations previously adopted by the California Health Facilities Commission that relate to functions vested in the office and that are in effect on that date, shall remain in effect and

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shall be fully enforceable to the extent that they are consistent with this chapter, as determined by the office, unless and until readopted, amended, or repealed by the office following review and comment by the commission.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.40, added by Stats. 1984, c. 1326, § 7.)

### **§ 128790. Transfer of funds**

Pursuant to Section 16304.9 of the Government Code, the Controller shall transfer to the office the unexpended balance of funds as of January 1, 1986, in the California Health Facilities Commission Fund, available for use in connection with the performance of the functions of the California Health Facilities Commission to which it has succeeded pursuant to this chapter.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.41, added by Stats. 1984, c. 1326, § 7.)

### **§ 128795. Transfer of officers and employees other than temporary employees**

All officers and employees of the California Health Facilities Commission who, on December 31, 1985, are serving the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the office by this chapter shall be transferred to the office. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the office, pursuant to the State Civil Service Act except as to positions exempted from civil service.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.42, added by Stats. 1984, c. 1326, § 7.)

### **§ 128800. Transfer of real and personal property of California health facilities commission**

The office shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, or other property, real or personal, held for the benefit or use of the California Health Facilities Commission for the performance of functions transferred to the office by this chapter.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.43, added by Stats. 1984, c. 1326, § 7.)

### **§ 128805. Contracts**

The office may enter into agreements and contracts with any person, department, agency, corporation, or legal entity as are necessary to carry out the functions vested in the office by this chapter or any other law.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.44, added by Stats. 1984, c. 1326, § 7.)

**§ 128810. Administration; rules and regulations**

The office shall administer this chapter and shall make all rules and regulations necessary to implement the provisions and achieve the purposes stated herein. The commission shall advise and consult with the office in carrying out the administration of this part.

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 443.45, added by Stats. 1984, c. 1326, § 7.)

**§ 128815. Duration of part**

This chapter shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

(Formerly § 443.46, added by Stats. 1984, c. 1326, § 7. Amended by Stats. 1988, c. 1140, § 3; Stats. 1995, c. 543 (S.B. 1109), § 3, eff. Oct. 4, 1995. Renumbered § 128815 and amended by Stats. 1996, c. 1023 (S.B. 1497), § 142, eff. Sept. 29, 1996.)

*[The following section while not within Part 5, Chapter 1, is relevant to the Health Data and Advisory Council Consolidation Act.]*

**§ 127280. Special fee charged to health facilities; California Health Data and Planning Fund; failure to pay fees**

(a) Every health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, except a health facility owned and operated by the state, shall be charged a fee of not more than 0.035 percent of the health facility's gross operating cost for the provision of health care services for its last fiscal year ending prior to the effective date of this section. Thereafter the office shall set for, charge to, and collect from all health facilities, except health facilities owned and operated by the state, a special fee, that shall be due on July 1, and delinquent on July 31 of each year beginning with the year 1977, of not more than 0.035 percent of the health facility's gross operating cost for provision of health care services for its last fiscal year which ended on or before June 30 of the preceding calendar year. Each year the office shall establish the fee to produce revenues equal to the appropriation to pay for the functions required to be performed pursuant to this chapter or Chapter 1 (commencing with Section 128675) of Part 5 by the office, the area and local health planning agencies, and the Advisory Health Council.

Health facilities that pay fees shall not be required to pay, directly or indirectly, the share of the costs of those health facilities for which fees are waived.

(b) There is hereby established the California Health Data and Planning Fund within the office for the purpose of receiving and expending fee revenues collected pursuant to this chapter.

(c) Any amounts raised by the collection of the special fees provided for by subdivision (a) of this section which are not required to meet appropriations in the Budget Act for the current fiscal year shall remain in the California Health Data and Planning Fund and shall be available to the office and the council in succeeding years when appropriated by the Legislature, for expenditure under the provisions of this chapter, and Chapter 1 (commencing with Section 128675) of Part 5 and shall reduce the amount of the special fees that the office is authorized to establish and charge.

(d) No health facility liable for the payment of fees required by this section shall be issued a license or have an existing license renewed unless the fees are paid. New, previously unlicensed health facilities shall be charged a pro rata fee to be established by the office during the first year of operation.



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The license of any health facility, against which the fees required by this section are charged, shall be revoked, after notice and hearing, if it is determined by the office that the fees required were not paid within the time prescribed by subdivision (a).

(Added by Stats. 1995, c. 415 (S.B. 1360), § 9. Former § 439, added by Stats. 1976, c. 854, § 31, amended by Stats. 1984, c. 1326, § 6; Stats. 1985, c. 1021, § 1; Stats. 1986, c. 1084, § 1; Stats. 1988, c. 67, § 1.)